

REMARKS

Claims 1-42 are in the application. Claims 26-42 have been withdrawn without prejudice. Claims 1 and 13 have been amended. Claims 1, 13, 26, 36 and 38 are independent. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claims 1-12 were rejected under 35 U.S.C. §112, second paragraph for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Without conceding correctness, and solely to advance prosecution, Claim 1 has been amended, thereby obviating the claim rejections. Reconsideration and withdrawal of the 35 U.S.C. §112, second paragraph rejections is respectfully requested.

Claims 1, 2, 6, 8, 11-14, 18, 20, 23 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2001/0034786 (Baumeister); Claims 3, 4, 7, 9, 15, 16, 19, 21 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view of U.S. Patent No. 6,006,264 (Colby); Claims 5 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view of U.S. Publication No. 2002/0019823 (Layeghi); Claims 10 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view of U.S. Publication No. 2002/0120577 (Hans). Reconsideration and withdrawal of the rejections are respectfully requested for at least the following reasons.

Claim 1 recites a system comprising one or more remote sites, each comprising one or more first servers configured to receive digital content from a client, and an ingest server configured to ingest the digital content received by the first servers, the digital content to be available to users via the first servers; and a central site geographically remote from the remote sites, the central site comprising one or more ingest queue servers to direct transfer of digital content from the ingest server to one or more of the first servers based on client identifying information.

Baumeister's system for streaming media data in heterogeneous environments differs from the claimed subject matter of claim 1. Baumeister teaches an application implemented on a media player transmitting a request for streaming media to a Stream Server Portal. The Stream Server Portal manages communication between the media

player, a database and streaming servers. The Stream Server Portal initially receives the request for streaming media from the media player, which comprises a location of the media data to be streamed. Based on the location information received by the Stream Server Portal from the media player, the Stream Server Portal chooses a stream server. The Stream Server Portal selects a stream server based on the storage location of the media data. The media data may be located in a cache of one of the stream servers. If the media data is not in the identified stream server cache, a stream server controller, implemented within the identified stream server, initiates a file transfer of the media data from the database via FTP (File Transfer protocol). The Stream Server Portal then passes address information to a stream server controller of a stream server. The stream server then streams the media to the media player.

In the Office Action, the Examiner contends that Baumeister's system for streaming media data reads on the recited claim elements. The Office Action cites Figures 2 and 3 of Baumeister, which teaches an application run on a media player that queries a Stream Server Portal for media by passing the location (address) of the media and the type of media player used to render the media to the Stream Server Portal. The Stream Server Portal chooses a specific stream server that is able to stream the media to the media player. The Stream Server Portal then returns meta data corresponding to the media to the application. The application then invokes the media player to initiate streaming of the media from the selected stream server.

Applicant submits that there is no disclosure in Baumeister of the presently claimed elements in claim 1. Baumeister does not teach, suggest nor disclose one or more first servers configured to receive digital content from a client, and an ingest server configured to ingest the digital content received by the first servers. Baumeister's stream servers are not configured to receive digital content from the client. The stream servers' ability to communicate with the client is entirely orchestrated by the Stream Server Portal. Baumeister's FTP server is also not configured to receive digital content in the manner taught in claim 1. The FTP server in Baumeister is implemented when the Stream Server Portal is unable to find the location of a media file, therefore, the FTP server contacts a database for file retrieval. Additionally, Baumeister does not teach, suggest or disclose a central site geographically remote from the remote sites, the central

site comprising one or more ingest queue servers to direct transfer of digital content from the ingest server to one or more of the first servers based on client identifying information. Applicant submits that the identified Stream Server Portal in Baumeister is in stark contrast to the recited claim elements describing the central site of claim 1. The Stream Server Portal selects stream servers based not on client identifying information, but on location information associated with the location of a media file.

Baumeister is silent as one or more first servers configured to receive digital content from a client, and an ingest server configured to ingest the digital content received by the first servers, as well silent as to a central site geographically remote from the remote sites, the central site comprising one or more ingest queue servers to direct transfer of digital content from the ingest server to one or more of the first servers based on client identifying information, as recited in claim 1.

Thus, because Baumeister does not teach or suggest the above elements, it is respectfully submitted that Claim 1 is patentable over Baumeister, and Applicant respectfully requests that the Examiner withdraw the rejection. Nor could Baumeister, alone or in combination with any reference of record, render Claim 1 obvious, as no such combination would yield all of the elements in the presently recited claims. Therefore, Baumeister cannot form the basis of a proper § 102 or § 103 rejection alone, and a combination with other references would not disclose all present claim elements, and thus not form the basis of a proper § 103 rejection. Therefore, Applicant respectfully requests withdrawal of this rejection.

Furthermore, with regard to Claim 1, the Office Action takes Official Notice of certain facts to reject the claims. Should the Examiner maintain the rejection, after considering the Applicant's remarks, the Examiner is respectfully requested to provide documentary evidence that substantiates the facts Officially Noticed and provides a suggestion or motivation to make the hypothetical combination proposed by the Examiner, as required to establish a *prima facie* case of obviousness under § 103(a).

A respectful reminder is made of the provisions of MPEP § 2106 II. C:

"when evaluating the scope of a claim, every limitation in the claimed invention in the claim must be considered. Office personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claims as a whole must be considered."

When properly taken as a whole, the subject matter recited in Claim 1, namely dealing with receiving and uploading digital content from a client as part of a system that uploads, manages and delivers digital content, including streaming media, is not disclosed or suggested by the applied art, let alone the facts purported to be well known by the Examiner.

For at least the reasons discussed, it is submitted that the grounds for rejection under § 103(a) are legally and factually deficient. Reconsideration and withdrawal of the § 103(a) rejection are therefore respectfully requested. For at least the foregoing reasons, Claim 1 and the claims that depend from claim 1 are believed to be in condition for allowance. In addition, for at least the same reasons stated above with respect to claim 1, independent Claim 13 is also believed to be in condition for allowance, and accordingly, the claims that depend from Claim 13 are also believed to be in condition for allowance.

Claims 3, 4, 7, 9, 15, 16, 19, 21 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view Colby. It is respectfully submitted that the features described above with respect to Claims 1 and 13 from which Claims 3, 4, 7, 9, 15, 16, 19, 21 and 25 depend, respectively, are applicable to this claim as well, and that Colby does not remedy these deficiencies. Therefore, Applicant submits that a combination of Baumeister and Colby would not yield all of the elements in the presently cited claims, and therefore the combination cannot form the basis of a proper obviousness rejection. Moreover, it is respectfully submitted that even if the combination of references yielded all of the claim elements, which it does not, the alleged reasoning for the combination of Baumeister and Colby is insufficiently presented.

Claims 5 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view of Layeghi. It is respectfully submitted that the features described above with respect to Claims 1 and 13 from which Claims 5 and 17 depend, respectively, are applicable to this claim as well, and that Layeghi does not remedy these deficiencies. Therefore, Applicant submits that a combination of Baumeister and Layeghi would not yield all of the elements in the presently cited claims, and therefore the combination cannot form the basis of a proper obviousness rejection. Moreover, it is respectfully submitted that even if the combination of references yielded all of the claim

elements, which it does not, the alleged reasoning for the combination of Baumeister and Layeghi is insufficiently presented.

Claims 10 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baumeister in view of Hans. It is respectfully submitted that the features described above with respect to Claims 1 and 13 from which Claims 10 and 22 depend, respectively, are applicable to this claim as well, and that Hans does not remedy these deficiencies. Therefore, Applicant submits that a combination of Baumeister and Hans would not yield all of the elements in the presently cited claims, and therefore the combination cannot form the basis of a proper obviousness rejection. Moreover, it is respectfully submitted that even if the combination of references yielded all of the claim elements, which it does not, the alleged reasoning for the combination of Baumeister and Hans is insufficiently presented.

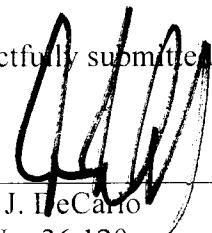
Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that the currently pending claims are in condition for allowance and Notice to that effect is respectfully solicited. Additional characteristics or arguments may exist that distinguish the claims over the prior art cited by the Examiner, and Applicant respectfully preserves their right to present these in the future, should they be necessary. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicant's undersigned representative.

The Applicant's attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 76058.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

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Respectfully submitted,



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